

ASSEMBLY, No. 1899

STATE OF NEW JERSEY

217th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2016 SESSION

Sponsored by:

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Assemblymen DeAngelo, Wimberly and Eustace

SYNOPSIS

Allows tax credits for development of qualified wind energy facilities in certain portfield sites.

CURRENT VERSION OF TEXT

Introduced Pending Technical Review by Legislative Counsel.



1 AN ACT concerning wind energy zones and amending P.L.2010,
2 c.57.

3
4 **BE IT ENACTED** *by the Senate and General Assembly of the State*
5 *of New Jersey:*

6
7 1. Section 6 of P.L.2010, c.57 (C.34:1B-209.4) is amended to
8 read as follows:

9 6. a. (1) A business, upon application to and approval from the
10 authority, shall be allowed a credit of 100 percent of its capital
11 investment, made after the effective date of P.L.2010, c.57 (C.48:3-
12 87.1 et al.) but prior to its submission of documentation pursuant to
13 subsection c. of this section, in a qualified wind energy facility
14 located within an eligible wind energy zone, pursuant to the
15 restrictions and requirements of this section. To be eligible for any
16 tax credits authorized under this section, a business shall
17 demonstrate to the authority, at the time of application, that the
18 State's financial support of the proposed capital investment in a
19 qualified wind energy facility will yield a net positive benefit to the
20 State. The value of all credits approved by the authority pursuant to
21 this section may be up to \$100,000,000, except as may be increased
22 by the authority as set forth below; provided, however, that the
23 combined value of all credits approved by the authority pursuant to
24 P.L.2007, c.346 (C.34:1B-207 et seq.), P.L.2009, c.90 (C.52:27D-
25 489a et al.), and P.L.2010, c.57 (C.48:3-87.1 et al.) shall not exceed
26 \$1,750,000,000. The authority shall monitor application and
27 allocation activity under P.L.2007, c.346 (C.34:1B-207 et seq.) after
28 taking into account the allocation under P.L.2007, c.346 (C.34:1B-
29 207 et seq.) and if sufficient credits are available to those qualified
30 business facilities for which applications have been filed or for
31 which applications are reasonably anticipated, and if the chief
32 executive officer of the authority judges certain qualified offshore
33 wind projects to be meritorious, the aforementioned cap may, in the
34 discretion of the chief executive officer, be exceeded for allocation
35 to qualified wind energy facilities in such amounts as the chief
36 executive officer deems reasonable, justified, and appropriate.

37 (2) (a) A business, other than a tenant eligible pursuant to
38 subparagraph (b) of this paragraph, shall make or acquire capital
39 investments totaling not less than \$50,000,000 in a qualified wind
40 energy facility, at which the business, including tenants at the
41 qualified wind energy facility, shall employ at least 300 new, full-
42 time employees, to be eligible for a credit under this section. A
43 business that acquires a qualified wind energy facility after the
44 effective date of P.L.2010, c.57 (C.48:3-87.1 et al.) shall also be

EXPLANATION – Matter enclosed in bold-faced brackets **[thus]** in the above bill is
not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

1 deemed to have acquired the capital investment made or acquired
2 by the seller.

3 (b) A business that is a tenant in the qualified wind energy
4 facility, the owner of which has made or acquired capital
5 investments in the facility totaling more than \$50,000,000, shall
6 occupy a leased area of the qualified wind energy facility that
7 represents at least \$17,500,000 of the capital investment in the
8 qualified wind energy facility at which at least 300 new, full-time
9 employees in the aggregate are employed, to be eligible for a credit
10 under this section. The amount of capital investment in a facility
11 that a leased area represents shall be equal to that percentage of the
12 owner's total capital investment in the facility that the percentage of
13 net leasable area leased by the tenant is of the total net leasable area
14 of the qualified business facility. Capital investments made by a
15 tenant shall be deemed to be included in the calculation of the
16 capital investment made or acquired by the owner, but only to the
17 extent necessary to meet the owner's minimum capital investment of
18 \$50,000,000. Capital investments made by a tenant and not
19 allocated to meet the owner's minimum capital investment threshold
20 of \$50,000,000 shall be added to the amount of capital investment
21 represented by the tenant's leased area in the qualified wind energy
22 facility.

23 (c) The calculation of the number of new, full-time employees
24 required pursuant to subparagraphs (a) and (b) of this paragraph
25 may include the number of new, full-time positions resulting from
26 an equipment supply coordination agreement with equipment
27 manufacturers, suppliers, installers, and operators associated with
28 the supply chain required to support the qualified wind energy
29 facility.

30 For the purposes of this paragraph, "full time employee" shall
31 not include an employee who is a resident of another state and
32 whose income is not subject to the "New Jersey Gross Income Tax
33 Act," N.J.S.54A:1-1 et seq., unless that state has entered into a
34 reciprocity agreement with the State of New Jersey, provided that
35 any employee whose work is provided pursuant to a collective
36 bargaining agreement with **the port district** a business in the wind
37 energy zone may be included.

38 (3) A business shall not be allowed a tax credit pursuant to this
39 section if the business **participates in** receives a business
40 employment incentive grant pursuant to the "Business Employment
41 Incentive Program Act," P.L.1996, c.26 (C.34:1B-124 et al.),
42 relating to the same capital and employees that qualify the business
43 for this credit, or if the business receives assistance pursuant to the
44 "Business Retention and Relocation Assistance Act," P.L.1996, c.25
45 (C.34:1B-112 et seq.). A business that is allowed a tax credit under
46 this section shall not be eligible for incentives authorized pursuant
47 to the "Municipal Rehabilitation and Economic Recovery Act,"
48 P.L.2002, c.43 (C.52:27BBB-1 et al.).

1 (4) Full-time employment for an accounting or privilege period
2 shall be determined as the average of the monthly full-time
3 employment for the period.

4 b. A business shall apply for the credit within **【five】 10** years
5 after the effective date of P.L.2007, c.346 (C.34:1B-207 et seq.),
6 and a business shall submit its documentation for approval of its
7 credit amount within **【eight】 13** years after the effective date of
8 P.L.2007, c.346 (C.34:1B-207 et seq.).

9 c. The credit allowed pursuant to this section shall be
10 administered in accordance with the provisions of subsection c. of
11 section 3 of P.L.2007, c.346 (C.34:1B-209) and section 33 of
12 P.L.2009, c.90 (C.34:1B-209.1), except that all references therein to
13 "qualified business facility" shall be deemed to refer to "qualified
14 wind energy facility," as that term is defined in subsection f. of this
15 section.

16 d. The amount of the credit allowed pursuant to this section
17 shall, except as otherwise provided, be equal to the capital
18 investment made by the business, or the capital investment
19 represented by the business's leased area, and shall be taken over a
20 10-year period, at the rate of one-tenth of the total amount of the
21 business's credit for each tax accounting or privilege period of the
22 business, beginning with the tax period in which the business is first
23 approved by the authority as having met the investment capital and
24 employment qualifications, subject to any disqualification as
25 determined by annual review by the authority. In conducting its
26 annual review, the authority may require a business to submit any
27 information determined by the authority to be necessary and
28 relevant to its review. The credit amount for any tax period ending
29 after the date **【eight】 13** years after the effective date of P.L.2007,
30 c.346 (C.34:1B-207 et seq.) during which the documentation of a
31 business's credit amount remains unapproved shall be forfeited,
32 although credit amounts for the remainder of the years of the 10-
33 year credit period shall remain available. The amount of the credit
34 allowed for a tax period to a business that is a tenant in a qualified
35 wind energy facility shall not exceed the business's total lease
36 payments for occupancy of the qualified wind energy facility for the
37 tax period.

38 e. The authority shall adopt rules **【in accordance with】** and
39 regulations pursuant to the "Administrative Procedure Act,"
40 P.L.1968, c.410 (C.52:14B-1 et seq.) as are necessary to implement
41 this section, including, but not limited to: examples of and the
42 determination of capital investment; the nature of businesses and
43 employment positions constituting and participating in an
44 equipment supply coordination agreement; a determination of the
45 types of businesses that may be eligible and expenses that may
46 constitute capital improvements; the promulgation of procedures
47 and forms necessary to apply for a credit; and provisions for

1 applicants to be charged an initial application fee, and ongoing
2 service fees, to cover the administrative costs related to the credit.

3 The rules and regulations established by the authority pursuant to
4 this subsection shall be effective immediately upon filing with the
5 Office of Administrative Law and shall be effective for a period not
6 to exceed 12 months and may, thereafter, be amended, adopted or
7 readopted in accordance with the provisions of the "Administrative
8 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.).

9 f. As used in this section: the terms "authority," "business,"
10 and "capital investment" shall have the same meanings as defined in
11 section 2 of the "Urban Transit Hub Tax Credit Act," P.L.2007,
12 c.346 (C.34:1B-208), except that all references therein to "qualified
13 business facility" shall be deemed to refer to "qualified wind energy
14 facility" as defined in this subsection.

15 In addition, as used in this section:

16 "Equipment supply coordination agreement" means an agreement
17 between a business and equipment manufacturer, supplier, installer,
18 and operator that supports a qualified offshore wind project, or
19 other wind energy project as determined by the authority, and that
20 indicates the number of new, full-time jobs to be created by the
21 agreement participants towards the employment requirement as set
22 forth in paragraph (2) of subsection a. of this section.

23 "Qualified offshore wind project" **【means】** shall have the same
24 meaning as **【the term is】** defined in section 3 of P.L.1999, c.23
25 (C.48:3-51).

26 "Qualified wind energy facility" means any building, complex of
27 buildings, or structural components of buildings, including water
28 access infrastructure, and all machinery and equipment used in the
29 manufacturing, assembly, development, or administration of
30 component parts that support the development and operation of a
31 qualified offshore wind project, or other wind energy project as
32 determined by the authority, and that are located in a wind energy
33 zone.

34 "Wind energy zone" means property located: (1) in the South
35 Jersey Port District established pursuant to "The South Jersey Port
36 Corporation Act," P.L.1968, c.60 (C.12:11A-1 et seq.) ; or (2) in the
37 project area of the "Portfields Initiative," designated as a portfield
38 site by the Port Authority of New York and New Jersey and the
39 New Jersey Economic Development Authority, and within a county
40 of the second class with at least 700,000 residents.

41 (cf: P.L.2012, c.35, s.3)

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43 2. This act shall take effect immediately.

STATEMENT

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This bill amends P.L.2010, c.57, known as the “Offshore Wind Economic Development Act,” to expand the definition of “wind energy zone” to include property located in the project area of the “Portfields Initiative,” designated as a portfield site by the Port Authority of New York and New Jersey and the New Jersey Economic Development Authority (EDA), and within a county of the second class with at least 700,000 residents. This change allows the EDA to provide tax credits for qualified wind energy facilities located in this area.